Recommendation by
Committee for the protection of Women's Rights at the Loya Jirga

The text of this report is prepared and submitted by the Committee for the Protection of Women's Rights at the Loya Jirga.
This committee through holding seminars and meetings recommend the following points to be considered in the Constitutional Loya Jirga.

1. **Article 4:** In regard to the rights of citizens, it is recommended that: National stability in Afghanistan is related to Afghan nation. It was agreed that it is of utmost importance to use direct and clear language on right of Afghan men and women to enjoy citizenship rights. The recommended text is underline in the following article: **"National Sovereignty in Afghanistan belongs to the nation that exercise it directly or through its representatives. The nation of Afghanistan consists of all individuals who are citizen of Afghanistan.**
The word Afghan applies to every citizen of Afghanistan. None of the citizens of the nation shall be deprived of his Afghan citizenship. Men and women shall have equal rights to acquire, change or retain their citizenship. Affairs related to citizenship and asylums are regulated by law."

2. **Article 5:** Because this article lists the state basic duties, it was unanimously agreed that inclusion of human rights should be amongst these duties. The recommended text is as follows: **"Implementation provisions of this constitution and other laws, defending independence, national sovereignty, territorial, citizens' Human Rights and ensuring the security and defense capability of country, are the basic duties of the state."**

3. **Article 7:** The following text on banning of trafficking in human being is added to the article in paragraph 2: "...The state prevents all types of terrorist activities, production and smuggling of narcotics **and trafficking in human beings.**"

4. **Article 22:** This article should serve as the corner stone in protection of human rights and promotion of women rights in the constitution. It should include the principles of equality before the law, non-discrimination assertion and affirmative actions for women rights. The recommended amendments are underlined as follows: **"Any kind of discrimination and privilege based on gender, language, religion, ethnicity, sect, family origin, disability social, economic and civil status between the citizens of Afghanistan is prohibited.**
Notwithstanding, the state is obligated to take necessary measures to safeguard women's property rights and to promote women's participation in all political, economic, social, cultural, civil or any other affairs in order to reach gender equality.
The citizens of Afghanistan have equal rights and duties before the law and enjoy (both men and women) equal protection of the law."

5. **Article 43:** The meeting unanimously agreed that free education should include higher education, and that special measures should be afforded to guarantee that women and the disabled have adequate access to education. The recommended text is underlined as follows: "**Education is the right of all citizens of Afghanistan, which shall be provided up to the <u>first degree of higher education,</u> free of charge by the state. <u>The state is obliged to provide for special measures and policies to ensure women and disabled adequate access to education....</u>**"

6. **Article 52:** The meeting agreed that it is important to state the principle of free health care in the constitution in addition to noting special health services for mother and child. The following underlined text is recommended: **"The state is obliged to provide the means of preventive health care, medical treatment and proper health facilities to all citizens of Afghanistan <u>free of charge</u> in accordance with the law. <u>The state is obliged to provide special services for mother and child during the period of pregnancy, delivery and nursing...</u>"**

7. **Article 83:** In order to enhance women participation in the political process, the meeting unanimously agreed to double women representation stated by the article. The recommendation to paragraph B of the article is as follows: "**...In the election law measures should be adopted for so the election system shall provide general and just representation for all the people of the country, <u>and at least two female delegates should be elected from each province."</u>**

8. **Article 138:** In order to enhance women participation in the political process, the meeting unanimously agreed to add an amendment that election laws should provide for gender balance to provincial council formation. The recommended text is as follows:"**... Members of the provincial councils are elected in proportion to the population by free, direct, secret ballot and general elections by the residents of the province for a period of four years in accordance with the law. <u>The law shall ensure gender balance through all phases of electoral process including women's representation in the provincial assembly….."</u>**

9. **Article 140:** In order to enhance women participation in the political process, the meeting unanimously agreed to add an amendment to the effect that the law should ensure women's participation in the local councils, The recommended text is as follows: "**... Member of these councils is elected by the local people through free, general, secret and direct elections for a period of three years, <u>The law will provide for the participation of women in local councils..."</u>**

10. **Article 117:** In order to ensure women's voice and perspective in the legal system, the meeting felt it important that women judges should serve at the supreme court of justice. The recommended text is as follows: "**The supreme court is composed of nine members <u>including women</u> who are appointed by**

the president for a period of ten years with the approval of the Wolesi Jirga...."

11. Note amendments:

- The meeting agreed that in article 53 the wording of **Female –headed households** should replace the wording **Women in with no guardian**.
- It was also recommended that the designation SHARWAND should be used to mean citizen instead of the word TABA which connotes subjects and not citizens.
- Last the meeting agreed that the death penalty should be removed from the constitution of Afghanistan.